

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

DEVON L. HARTFIELD	§	
VS.	§	CIVIL ACTION NO. 1:16-CV-468
SERINGI, ET AL.	§	

MEMORANDUM ORDER OVERRULING PLAINTIFF’S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff Devon L. Hartfield, a prisoner confined at the Larry Gist State Jail Facility, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Warden Seringi, Assistant Warden Ortega, Assistant Regional Director Steve Massie, and Food Service Captain Florence Morris.

The court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the civil rights action pursuant to 28 U.S.C. § 1915(e) as frivolous and for failure to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and the pleadings. Petitioner filed a “Notice to the Court,” which the court liberally construes as objections to the magistrate judge’s Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. Plaintiff alleges he missed a meal because he was allergic to the eggs

he was served, and he was not given a replacement food tray. However, missing a single meal does not rise to the level of a constitutional violation. *Berry v. Brady*, 192 F.3d 504, 508 (5th Cir. 1999).

ORDER

Accordingly, plaintiff's objections (document no. 7) are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge (document no. 4) is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED this the **3** day of **January, 2017**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", is written over a horizontal line.

Thad Heartfield
United States District Judge